

Dolphin-Safe Label

Background

One of the primary fishing methods used to harvest tuna in the eastern tropical Pacific Ocean (ETP) is the setting of purse seine nets around certain schools of dolphin to catch tuna that swim below. The International Dolphin Conservation Program Act (IDCPA) of 1997 requires the Commerce Department to study the effects of this fishing practice on dolphins and to conduct dolphin population assessments and stress studies to determine if the tuna purse seine fishery is having a significant adverse impact on any depleted dolphin stock. In the absence of sufficient information to make such a determination, the Commerce Department is directed to adopt the new dolphin-safe definition consistent with internationally agreed standards.

Scientific Finding

In July 1998, the National Marine Fisheries Service (NMFS) began research to ascertain the effects of the fishing practice of chasing and encircling dolphins. In April 1999, there was insufficient evidence to make a scientific finding of significant adverse impact, and therefore, the Commerce Department changed the dolphin-safe labeling standard in its initial scientific finding under the IDCPA. Due to a decision by a U.S. District Court in Brower v. Daley, the use of the new definition of dolphin-safe has been set aside, requiring that the Department enforce the old dolphin-safe standard for the time being. The Department of Justice appealed this decision and is awaiting a ruling.

Until the court rules on the appeal, the dolphin-safe labeling standard reverts back to the standard in place before February 2, 2000, effectively preventing yellowfin tuna imports that would otherwise have been considered "dolphin-safe" under the new law from being sold as such. So, although nations wishing to import yellowfin tuna may receive an affirmative finding and import "non-dolphin-safe" tuna into the United States, without the change in the dolphin-safe standard, these nations believe that they are still subject to an embargo of sorts. This is because, if a nation harvests yellowfin tuna in the ETP by purse seine through the chase and encirclement of dolphins, this tuna cannot be labeled "dolphin-safe," even though no dolphins were observed to be killed or seriously injured in the set and the nation is operating in compliance with the dolphin and tuna conservation measures of the legally binding Agreement on the International Dolphin Conservation Program (AIDCP). These circumstances threaten the continued stability of international cooperation in implementing necessary dolphin and tuna conservation measures.

Labeling Standard

Before the initial scientific finding, tuna products containing tuna harvested in the ETP could be labeled "dolphin-safe" only if no intentional setting on dolphins occurred during the fishing trip. With the new labeling standard (which has presently be set aside by a court ruling), tuna caught in the ETP by large purse seine vessels may be labeled "dolphin-safe" only if no dolphins were killed or seriously injured during the set in which the tuna were caught. The label is supported by a tracking and verification program to track tuna from the set in which the tuna is caught to the can in which the tuna is packed.

Impact on Dolphin Stocks

The change in the labeling standard does not increase the number of dolphins that are annually killed in this international fishery because the AIDCP limits dolphin mortalities associated with tuna fishing to fewer than 5,000 dolphins per year and sets per-stock-per-year dolphin mortality limits to ensure that no individual dolphin stock is adversely affected by the fishery. In fact, the change in the dolphin-safe definition would provide added incentive for nations to keep dolphin mortality very low. Through international conservation efforts, fewer than 2,000 dolphins have been killed in this fishery annually since 1998.